

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,
v.
JAMES T. GOLDEN,
Respondent.

FILED
Case No. 68,054

APR 22 1986

CLERK, SUPREME COURT

By *jl*
Chief Deputy Clerk

REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to Article XI of the Integration Rule of The Florida Bar, hearings were held on March 12, 1986. The Pleadings, Notices, Motions, Orders, Transcripts and Exhibits all of which are forwarded to The Supreme Court of Florida with this report, constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: Jan K. Wichrowski

For the Respondent: James T. Golden, In Pro Se.

II. Findings of Fact as to Each Item of Misconduct of which the Respondent is charged : After considering all the pleadings and evidence before me, pertinent portions of which are commented on below, I find:

1. That Respondent, James T. Golden, is, and at all times hereinafter mentioned was, a member of The Florida Bar, subject to the jurisdiction and Disciplinary Rules of The Supreme Court of Florida.

2. At all times material, Respondent maintained his record bar address and practiced law in Seminole County, Florida.

3. In November of 1984, Mr. James White of St. Albans, New York, retained Mr. Golden to probate the estate of George White. Mr. George White was Mr. James White's deceased brother, who died intestate in Broward County. Although Mr. George M. White resided in Broward County until his death, he owned property in Seminole County, Transcript of March 12, 1986, at p. 8-12 (hereinafter T- __).

4. Respondent, at the time he was retained, informed Mr. White that his fee to probate the estate would be \$750.00 plus costs of \$138.44. An attorney-client contract was completed which specified that Respondent was retained for the above fee to probate the estate. Mr. White informed Respondent that his brother had an illegitimate son who might challenge the probate. He also gave Respondent the death certificate and the funeral bill, as requested. Bar Exhibit One and T-8-12.

5. Mr. White was not from the Seminole County area but kept Respondent advised of his current address. Mr. White received no communication initiated from Respondent during the entire period of his representation except a receipt for the full amount of attorney's fees. T-8-33, 41-80, and Bar Exhibit Two.

6. Mr. White telephoned Respondent several times to inquire about the progress of the probate. Often, Respondent was not available to speak to Mr. White. When Mr. White did not speak to Respondent, however,

Respondent informed him that the probate was progressing. At one point, Respondent told Mr. White that probate was filed and that it took a certain amount of time, 120 days, to complete, T-23.

7. On March 29, 1985, after he had been unable to contact Respondent for several weeks, Mr. White telephoned the Seminole County Courthouse to inquire about the progress of the probate. A court clerk informed him that Respondent had never filed to probate the estate and had only filed a Caveat of Credit, R 23-25

8. Mr. White later learned that his brother's illegitimate son had probated the estate in Broward County, Florida. He retained other counsel to represent his interests.

9. Mr. White later received a refund of all fees he had paid to Respondent for the services requested.

10. Mr. Golden did neglect to carry out the legal matter entrusted in him regarding the probate. I find a complete lack of evidence that the Respondent did any work on behalf of Mr. White's case at all. Although the Respondent states that he found that his client did not have an appropriate case, there is no evidence of any attempts of Respondent to get in touch with his client to tell him about his findings, in spite of the fact that his client kept in excellent contact with his attorney and made several requests as to the status of his case. Respondent had a duty to inform his client of his findings. However, Mr. Golden, after advising his client that he would begin probate proceedings immediately, took no actions at all. Mr. Golden also kept

the retainer for which he had been paid to file probate until he returned it after Mr. White's complaint was referred to a grievance committee. Respondent has failed to show any timesheets or any testimony demonstrating that he spent any time at all in regard to this case and I further note that Respondent declined to be sworn to give testimony under oath in this matter.

III. Recommendations as to whether or not the Respondent should be found guilty : As to each count of the complaint I make the following recommendations as to guilt or innocence:

I Recommend that the Respondent be found guilty of violating 6-101(A)(3) of the Disciplinary Rules of The Code of Professional Responsibility of The Florida Bar. This Referee further finds the Respondent in violation of Disciplinary Rules 7-101(A)(1) for failing to seek the legal objectives of his client and 7-101(A)(2) for failing to carry out a contract of employment entered into with a client for professional services.

IV. Recommendation as to Disciplinary measure to be applied : I recommend that the Respondent be suspended for a fixed period of thirty (30) days, thereafter until he shall pay the cost of this proceeding as outlined below. I further recommend that the Respondent should receive a public reprimand pursuant to Rule 11.01(3).

V. Personal History and Past Disciplinary Record : After findings of guilty and prior to recommending discipline to be recommended pursuant to Rule 11.06(9)(a)(4), I considered the following personal history and prior disciplinary record of the Respondent, to wit:

Age: 39

Date Admitted to Bar: 1975

Prior Disciplinary convictions and disciplinary measures imposed therein: The Florida Bar v. Golden, 401 So.2d 1340 (Fla. 1981), Public Reprimand.

VI. Statement of costs and manner in which costs should be taxed : I find the following costs were reasonably incurred by The Florida Bar.

A.	Grievance Committee Level Costs	
1.	Administrative Costs	\$150.00
2.	Transcript Costs	\$197.20
3.	Witness Costs	\$848.43
B.	Referee Level Costs	
1.	Administrative Costs	\$150.00
2.	Transcript Costs	\$345.20
3.	Bar Counsel/Branch Staff Counsel Travel Costs	\$20.78
4.	Witness Costs	\$320.93

TOTAL ITEMIZED COSTS: \$2,032.54

It is apparent that other costs have or may be incurred. It is recommended that all such costs and expenses together with the foregoing itemized costs be charged to the Respondent, and that interest at the statutory rate shall accrue and be payable beginning 30 days after the judgement in this case becomes final

unless a waiver is granted by The Board of Governors of
The Florida Bar.

Dated this 14th day of April, 1986.


Frederick T. Pfeiffer
Referee

cc:

Bar Counsel
Counsel for Respondent
Staff Counsel, The Florida Bar, Tallahassee, Florida
32301

4/15/86 Ed. Dasher, Ind. Assistant